REMARKS/ARGUMENTS

In the October 15, 2007 Office Action, claims 25-26, 28-29, and 31-33 were objected to because they each recite the phrase "including the step of . . .". The Office Action asserts that this phrase should read "including a step of . . ." apparently so as to provide proper antecedent basis. However, this language parallels the transition that appears in the independent claims, i.e., "comprising the steps of . . .". Applicant respectfully traverses this objection and invites the examiner to identify that portion of the MPEP which supports his position.

Claims 30 and 32 were rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. The claim limitation of "color scale indicia" is allegedly not supported in the specification. Applicants respectfully submit that support for this claim limitation does exist in the specification on page 8, lines 4-9. This portion of the specification discusses color scales, specifically, a "true value color scale", a "neutral color scale", and a "tonal color scale". The text following this section describes other color scales such as fluorescent colors and other sub-sets. The text and the related figures describe the identification of various color scales, thus providing written description support for the claim limitation. To more clearly set forth support for a "color scale indicia", Applicants have amended that portion of the specification, as indicated above, to add the following:

> The true value, neutral and tonal color scales, as well as other possible color scales, i.e., color scale indicia, are identified and represented on different color selector devices 10'.

Claim 32 was rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter with applicant regards as the invention. In claim 32, line 3, the phrase "the color selector device" allegedly lacks clear antecedent basis. Applicants have amended claim 32 to address this rejection.

Claims 1-6, 8-14, 17, 25-31 and 33 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Rice et al (US 2005/0100210 A1) in view of Tracy et al (US 6,139,325, as applied in previous Office Action). In response, the independent claims have been amended to recite a method for creating a color matching and coordinating reference system for use by manufacturers and consumers of goods, which clearly distinguishes over the cited prior art. The method begins with assigning a unique identification code for each of a plurality of colors, the identification code comprising color family indicia and color value indicia. Next, the method requires matching a sample color and harmonious color combinations of the sample color to one of the assigned identification codes. The method is completed with the labeling of two or more goods individually with an identification code representing a color match with a color of each individual good. The labeling is done such that a consumer can match the identification codes of the goods to the identification codes of the sample color and harmonious color combinations.

The pending claims recite a system whereby a consumer can perform a one time match of a sample color to one of a plurality of colors to obtain identification designations for the sample color and a set of harmonious color combinations. Using those identification designations, the consumer can select goods from a group of goods that have been individually labeled with identification codes identifying the color of the individual goods. In this way, the consumer can be more certain that the colors of the selected goods match the sample color or form a harmonious color combination therewith. Such a system, when applied to varied goods and multiple manufacturers/vendors, will create an easier method for consumers to design matching color sets, whether for an entire home, a single room, a small part of a room, or a single craft project.

The cited prior art does not discuss a system whereby consumer goods are labeled with codes that identify not only the color of the good, but other colors that will match the color thereof. In fact, the Office Action admits that Tracy does not teach

"manufacturing a good having a color". Moreover, Tracy fails to teach labeling a good with a matching identification code, or that the matching identification code can be used to identify other similarly labeled goods with a matching or harmonious color combination. Tracy simply teaches a device for determining aesthetically harmonious color combinations. Tracy does not teach a system that facilitates a consumer identifying various goods that possess colors which possess these aesthetically harmonious color combinations.

Rice teaches a color selection and coordination kiosk and system. In Rice's system, a consumer accesses the system and matches a color sample to identify the appropriate paint color. Using the identified color sample and an intended use of the paint, the system then uses a database to provide one or more color coordination schemes that include the identified color sample. The consumer then selects one of the schemes. In this way, a consumer can easily identify which paint colors to purchase to satisfy the selected color scheme. Nothing in Rice suggests labeling the paint with identification codes that identify matching colors or other colors of the same color family. In addition, nothing in Rice suggests generating a color scheme that matches anything other than paint colors.

Applicant has previously addressed the inapplicability of the "Learning Web Design" reference and respectfully submits that the same fails to overcome the shortcomings of the Rice and Tracy references with respect to amended independent claims 1, 12 and 30. More particularly,"Learning Web Design" does not teach of selecting an identification code representing a color match with the color of the good, and labeling the good with the identification code, or a color name representing the identification code, to identify and consistently reference the color of the good.

None of the cited references address the existence of the problem solved by the present invention. That is, the present invention addresses the problem of consistently and uniformly creating and assigning an identification code for each of a

plurality of colors. This identification code may be represented with a color name. The consistent and approved use of the color identification code and/or assigned color name which is labeled on goods allows different manufacturers (or a manufacturer of different goods) to utilize the same identification code and/or assigned color name for exactly matching colors. This benefit is translated to the consumer, who can then purchase goods labeled with the identification code and/or assigned color name and know that the color will exactly match, or coordinate with a color having a coordinating identification code and/or color name. This, as described above, has not been the case in the past, but none of the cited references mention this problem as they are directed at overcoming other, unrelated, problems. In the rare case where the prior art does not appreciate the existence of the problem solved by the invention, the applicant's recognition of the problem is, in itself, strong evidence of the non-obviousness of the invention. *In re Nomiya et al.*, 184 USPQ 607, 612-613 (CCPA 1975).

With regard to claims 25-26 and 28-33, the Office Action has wholly failed to address the limitation requiring submitting the goods to a governing body to compare and match the color of each of the goods to an assigned unique identification code and color name. In the present invention, the manufacturers submit sample goods to a governing body which confirms or assigns the identification code for each of the colors of the good. The good is then labeled with the one or more identification codes, or corresponding assigned color names. The Office Action has cited to no prior art which teach or suggest such a limitation.

In addition, claims 26, 29 and 31 recite the step of labeling the goods with indicia representing that the governing body has compared and matched the color of the good with the unique identification code. In this manner, the consumers would know that the identification code and color name could be relied upon for exact matches and coordinating colors. This is not discussed or suggested whatsoever in any of the cited references.

CONCLUSION

From the foregoing amendments and remarks, applicant respectfully asserts that the currently pending claims 1-4, 8-14, 17 and 25-33 are in condition for allowance, notice of which is hereby respectfully requested.

Respectfully submitted,

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